

# **EXHIBIT A**

O2CANWC

1 UNITED STATES DISTRICT COURT  
2 SOUTHERN DISTRICT OF NEW YORK

3 NEW YORKERS AGAINST CONGESTION  
4 PRICING TAX, *et al.*,

5 Plaintiff,

6 v.

24 Civ. 367 (LJL)

7 UNITED STATES DEPARTMENT OF  
8 TRANSPORTATION, *et al.*,

Conference

9 Defendants.

10 -----x  
-----x

11 ELIZABETH CHAN, ET AL.,

12 Plaintiffs,

13 v.

23 Civ. 10365 (LJL)

14 UNITED STATES DEPARTMENT OF  
15 TRANSPORTATION *et al.*,

16 Defendants.

17 -----x

18  
19 New York, N.Y.  
20 February 12, 2024  
10:07 a.m.

21 Before:

22 HON. LEWIS J. LIMAN,

23 District Judge

O2CANEW

1 East Side may not have or East Harlem. So by bringing it as a  
2 class action, we have representative plaintiffs and, therefore,  
3 any remedy could apply to the class.

4 THE COURT: And is it your position that that wouldn't  
5 be the case if the case goes forward with the individual  
6 plaintiffs that you've got who are members of each of these  
7 different communities?

8 MR. LESTER: Well, it's possible that if we had a  
9 declaratory judgment on behalf of one individual that applied  
10 to the entire class, that that would be appropriate. But I  
11 think as a prophylactic measure to bring it as a class action  
12 creates some extra viability and there would be notice to the  
13 class. There could be monetary damages that would have to  
14 apply to the class as well.

15 THE COURT: What's the nature of -- give me a moment.

16 MR. LESTER: So, for example --

17 THE COURT: I'm sorry. I don't see in your complaint  
18 a request for monetary damages. I do see requests for various  
19 types of declaratory relief and injunctive relief and for the  
20 payment of costs. Is there something I'm missing?

21 MR. LESTER: I think we request certain monitoring  
22 that should occur and that could be unique to each community.

23 THE COURT: Okay. But you're not seeking monetary  
24 damages at this point?

25 MR. LESTER: Well, in order to accomplish monitoring,

O2CANEWC

1 it would probably have to be some compensation, some  
2 appropriation of funds.

3 THE COURT: Well, in other words, am I correct in  
4 understanding that the monitoring, if I ordered it, would have  
5 to be paid for by the defendants, but that you're not seeking  
6 monetary relief on behalf of members of the class?

7 MR. LESTER: Correct.

8 THE COURT: That's correct?

9 MR. LESTER: Correct.

10 THE COURT: So how do you propose to prosecute this  
11 case? Are you going to be seeking discovery? Do you have a  
12 view with respect to how I coordinate it with the case that was  
13 filed by Mr. Klinger? Why don't you address those issues.

14 MR. LESTER: Well, I think the administrative record  
15 is fairly complete. I mean --

16 THE COURT: I understand it's also pretty lengthy.

17 MR. LESTER: Right. So the issue there for us is that  
18 in the record, the EPA indicated that there should be a full  
19 environmental impact statement, and there should be mitigation,  
20 there should be alternatives. But the FONSI, in contradiction  
21 to the facts laid out by the environmental assessment,  
22 contradicted the facts. So I think in terms of the record,  
23 we're pretty confident that we could base our case and win a  
24 motion for summary judgment based on the record. But insofar  
25 as plaintiffs in the companion case endeavor into discovery, we